

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE  
DIRECTOR

December 10, 1993  
AO-93-28

Daniel B. Winslow, Esq.  
Suite 2800  
100 Summer Street  
Boston, MA 02110

RE: Middlesex Club Luncheons

Dear Mr. Winslow:

This letter is in response to your September 27, 1993 request for an advisory opinion regarding the Middlesex Club's proposed luncheons.

The facts as you have related them in your correspondence can be summarized as follows. You are a Vice President of the Middlesex Club, which was founded in 1867 "to preserve, teach and foster time-honored Republican principles, in the tradition of Abraham Lincoln, and to develop social intercourse among [the club's] members." The club does not make, has never made, and does not intend to make, political contributions to candidates or referenda committees. Although most of the club's membership consists of Republicans, the club has no formal links to the Republican party. The membership includes "at least one Democrat" and is open to any Democrat or other person "who is interested in the object of the Club."

The club is planning to host a regular luncheon series, featuring guest speakers on a variety of subjects of current interest. The club will charge admission and will include as guest speakers various appointed state officials who will speak regarding issues within their expertise. The purpose of the luncheons will be to (a) provide a social opportunity for club members; (b) create a vehicle to increase club membership; and (c) raise money for the club's treasury.

You have asked two questions which we will address separately.

(1) Are appointed employees of the Commonwealth prohibited by G.L. c. 55, s. 13, or any other Massachusetts statute, from being guest speakers at the proposed club luncheons?

M.G.L. c. 55, s. 13 states, in part:

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city, or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but

this section shall not prevent such persons from being members of political organizations or committees.

This office has stated that the prohibition set forth in section 13 (as well as in sections 14-17) is a broad one intended to guard against the potential for corruption by prohibiting not only direct political solicitation by public employees but also indirect political solicitation. The prohibition against indirect solicitation is designed to prevent a public employee from doing in a roundabout or circuitous manner what the employee can not do directly. See AO-93-10.

I assume that: (1) the club will not use proceeds from the luncheons for any political purpose; (2) the club, and persons associated with the club, will not use the luncheons to solicit or receive funds to be used as political contributions; and (3) the guest speakers will not engage in political fundraising. In light of these assumptions, discussed in more detail below, I conclude that the campaign finance laws do not prohibit appointed state officers from serving as guest speakers at the proposed luncheons, and that such participation does not constitute indirect solicitation.

Your letter states that the club will not use the proceeds obtained from the luncheons to make political contributions "to candidates or referenda committees." I assume, however, that the club will make no contributions to any political committee, i.e., it will not contribute to a candidate's committee, multi-candidate committees, ward, town or city committees, or state party committees. I also assume that there will be no solicitation by any person involved with the luncheons, including the speakers. Based upon these assumptions, I conclude that appointed public employees can speak at the proposed luncheons.

I recommend, however, that if the club states its object ("to preserve, teach and foster time-honored Republican principles . . .") in connection with invitations, advertisements, or in any manner at the luncheon, that the club state clearly that (1) the club is not connected with the Republican party; (2) the club will not use funds received for the luncheons for a political purpose; and (3) no political fundraising will take place at the luncheons. In the absence of such notification, confusion may result, since persons may reasonably believe that the club is associated with the Republican party and that their contributions will be used for a political purpose.

(2) Is the Middlesex Club prohibited by G.L. c. 55, s. 8, or any other Massachusetts statute, from soliciting or accepting corporate purchases of luncheon tickets?

The campaign finance law prohibits business corporations from making political contributions. In pertinent part, M.G.L. c. 55, s. 8 provides that:

[N]o business corporation incorporated under the laws of or doing business in the commonwealth and no officer or agent acting in behalf of any corporation mentioned in this section, shall directly or indirectly give, pay, expend, or contribute, or


promise to give, pay, expend or contribute, any money or other valuable thing for the purpose of aiding, promoting or preventing the nomination or election of any person to public office, or aiding or promoting or antagonizing the interest of any political party.

If funds received from corporate purchases of luncheon tickets will not be used, directly or indirectly, for any political purpose, which I assume to be the case based on the representations in your letter and the assumptions noted in this opinion, the club is not prohibited by G.L. c. 55 from soliciting or accepting the funds.<sup>1</sup>

This opinion has been rendered solely on the basis of representations made in your letter, assumptions made in this letter, and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours,

  
Mary F. McTigue  
Director

MFm/cp  
cc: Andrew B. Crane, Executive Director  
State Ethics Commission

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<sup>1</sup>. You have asked if appointed state employees are prohibited by c. 55 or any other Massachusetts statute, from being guest speakers at proposed Club luncheons. We can provide advice only with respect to M.G.L. c. 55, the campaign finance law. Questions may be raised, however, under M.G.L. c. 268A, the state's conflict-of-interest law. We recommend that you seek guidance from the State Ethics Commission on this matter.